

# O'TOOLE SCRIVO

A LIMITED LIABILITY COMPANY

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February 20, 2024

**Via CM/ECF**

Hon. Edward S. Kiel, U.S.M.J.  
United States District Court, District of New Jersey  
Martin Luther King Building & U.S. Courthouse  
50 Walnut Street, Courtroom PO 08  
Newark, New Jersey 07101

**Re: *New Wallington Home, LLC, et al. v. Borough of Wallington, et al.***  
**Civil Case No.: 20-08178 (CCC) (ESK)**

Dear Judge Kiel:

This firm represents Plaintiffs New Wallington Homes, LLC, and Morningside at Wallington, LLC (collectively, "Plaintiffs"), in the above matter. As an initial matter, we are pleased to inform the Court that the parties have reached a partial settlement of this case.

As Your Honor may recall, among the six (6) counts included in Plaintiffs' Amended Complaint filed December 7, 2020, were claims for violations of procedural due process pursuant to 42 U.S.C. § 1983 ("Fifth Count") and unjust enrichment ("Sixth Count") based on allegations that Defendants retaliated against Plaintiffs for their efforts to construct inclusionary development in the Borough of Wallington ("Borough") by engaging in tax-related misconduct from 2016 through 2018 (the "Tax Issues"). On January 30, 2024, the parties agreed to settlement terms resolving the Tax Issues and dismissing the Fifth and Sixth Counts. The Borough Council provisionally approved the settlement and is expected to adopt a resolution authorizing the settlement at its February 22, 2024, public meeting.

At the same time, there is currently a telephone status conference scheduled, pursuant to ECF No. 78, to occur before Your Honor on February 23, 2024, at 10:30 a.m. We respectfully request, with the consent of Defendants' counsel, that the status conference be adjourned to mid-March to allow for final approval of the settlement and to well-position the parties to discuss at the conference re-opening the case to allow for continued litigation of Plaintiffs' remaining four (4) counts.

We thank the Court for its time and consideration of this matter.

Respectfully submitted,

/s/ James DiGiulio  
James DiGiulio

cc: All counsel of record